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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,144	07/14/2006	Donald H. Eason	USS-MDS20-PCT3-USNP	4166
33549 7590 06/10/2009 SANTANGELO LAW OFFICES, P.C. 125 SOUTH HOWES, THIRD FLOOR FORT COLLINS, CO 80521			EXAMINER UHLIR, CHRISTOPHER J	
			ART UNIT 2832	PAPER NUMBER
			NOTIFICATION DATE 06/10/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/586,144	Applicant(s) EASON ET AL.	
	Examiner CHRISTOPHER UHLIR	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13, 14, 17-23 and 49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 17-23, and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Receipt is acknowledged of applicants' amendment filed March 24, 2009.

Claims 12, 15, 16, and 24 have been canceled without prejudice. Claims 1-11, 13, 14, 17-23, and 49 are pending and an action on the merits is as follows.

Objections to claims 1, 3, 8, 12, 13, 16, 18, 21, and 24 are withdrawn.

Applicants' arguments with respect to claims have been considered and are addressed below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Torrez (US 6,610,916 B1).

Regarding claim 1, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (right horizontal longitudinal bar 130 and main horizontal longitudinal bar 110), each supported by two rail support legs (left front vertical leg 150, right front vertical leg 160, and right rear vertical leg 180). Each

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support leg (150, 160, 180) is coupled to respective item support rails (130, 110) by a coupler (pivot fitting 220, 230) (column 3 lines 58-64 and line 66 through column 4 line 2). Fig. 1a further shows each of said rail support legs (150, 160, 180) to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art. A coupler (220) is disclosed to be a pivot coupler which pivotally couples an item support rail (130) to a rail support leg (160) about a vertical axis along plane (H1), as can be seen from Figs. 1d and 2-4 (column 3 lines 58-64). A cable (102) is further disclosed to pass through at least a portion of an item support rail (110) through open end (101) (column 3 lines 29-31).

In reference to claim 2, Torrez discloses a support apparatus having three rail support legs (150, 160, 180) as stated above.

In reference to claim 3, Torrez discloses a support apparatus as stated above, where the pivot coupler has a cable port (open end 101) sized to properly accommodate passage the cable (102) to the item support rail (110) (column 3 lines 29-31). Fig. 1a shows that a cable is also required to pass through at least a portion of the other item support rail (130). Therefore each item support rail (110, 130) is sized to accommodate passage of said cable (102).

In reference to claim 11, Torrez discloses a support apparatus as stated above, where said support apparatus is collapsible (column 2 lines 5-6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being obvious over Torrez (US 6,610,916 B1).

In reference to claim 4, Torrez discloses a support apparatus as stated above, shown in Fig. 1b to have a cable end connector (104) attached to the cable (102). Said cable end connector (104) is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable (102). This reference fails to explicitly disclose that the cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector that can be easily connected and disconnected to a mating cable end connector due to its large size.

In reference to claim 5, Torrez discloses a support apparatus having a cable port as stated above, further shown in Fig. 1a to have multiple microphones attached to

each item support rail. This reference fails to explicitly disclose the pivot coupler to have at least a first and second cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least a first and second cable port, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claims 6 and 7, Torrez discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 8, Torrez discloses a support apparatus as stated above, shown in Fig. 1a to have a cable port (101) sized to accommodate only one cable (102) (column 3 lines 29-31).

In reference to claim 9, Torrez discloses a support apparatus as stated above, where said cable (102) is shown in Fig. 1a to pass from an external space to an internal

portion of an item support rail (110) (column 3 lines 29-31). This reference fails to explicitly disclose the cable to pass an external surface of a rail support leg.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cable to pass an external surface of a rail support leg, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a reliable method of securing the cable in order to prevent a person from tripping over the cable.

5. Claims 10, 13, 14, 17-23, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torrez (US 6,610,916 B1) in view of Adinolfi (US 5,929,355).

In reference to claim 10, Torrez discloses a support apparatus as stated above, but fails to explicitly disclose at least one item support rail to be non-horizontal.

However Adinolfi teaches a support apparatus having an item support rail (horizontal cross support 13) which is vertically adjustable through clamps 1(6, 18) (column 2 lines 43-46).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez with providing at least one item support rail which is vertically adjustable as taught by Adinolfi. It has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). Doing so would provide a support apparatus that can be easily and comfortably used by musicians of different sizes. These references fail to explicitly disclose at least one item support rail to be non-horizontal.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide at least one item support rail to be non-horizontal, since it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus that can be easily and comfortably used simultaneously by musicians of different sizes.

In reference to claim 13, Torrez discloses a support apparatus shown in Figs. 1a and 2 to have two item support rails (right horizontal longitudinal bar 130 and main horizontal longitudinal bar 110), each supported by two rail support legs (left front vertical leg 150, right front vertical leg 160, and right rear vertical leg 180). At least two couplers (pivot fitting 220, 230) are further shown to each couple one of the item support rails (130) to a rail support leg (180) (column 3 lines 58-64 and line 66 through column 4 line 2). Fig. 1a further shows each of said rail support legs (150, 160, 180) to have a lower end adapted to rest on a lower supporting surface (floor) as is typical in the art.

A cable (102) is further disclosed to pass through at least a portion of an item support rail (110) through open end (101) (column 3 lines 29-31). Fig. 1a shows that a cable is also required to pass through at least a portion of the other item support rail (130). Therefore each item support rail (110, 130) is sized to accommodate passage of said cable (102). A cable port (open end 101) is disclosed to be sized to accommodate said cable (102) to the item support rail (110) (column 3 lines 29-31). Said cable (102) is further shown in Fig. 1a to pass from an external space through said cable port (101) to an internal portion of an item support rail (110) (column 3 lines 29-31). This

reference fails to explicitly disclose the couplers to be height adjust couplers that enable vertical height adjustment of an item support rail such that an item support rail is coupled to a rail support leg at an angle other than 90 degrees. This reference further fails to explicitly disclose the cable to pass an external surface of a rail support leg.

However Adinolfi teaches a support apparatus shown in FIG. 1 to have an item support rail (horizontal cross support 13) which is vertically adjustable through height adjust couplers (clamps 16, 18) (column 2 lines 43-46).

Since these references pertain to a support apparatus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the support apparatus disclosed by Torrez with providing at least two of the couples to be height adjust couplers that enable vertical height adjustment of an item support rail as taught by Adinolfi. It has been held that the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954). Doing so would provide a support apparatus that can be easily and comfortably used by musicians of different sizes. These references fail to explicitly disclose an item support rail to be coupled to a rail support leg at an angle other than 90 degrees, and the cable to pass an external surface of a rail support leg.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an item support rail to be coupled to a rail support leg at an angle other than 90 degrees. It would have further been obvious to one of ordinary skill in the art at the time the invention was made to provide the cable to pass an external surface of a rail support leg. It has been held that rearranging parts of an

invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Doing so would provide a support apparatus that can be easily and comfortably used simultaneously by musicians of different sizes, while providing a reliable method of securing the cable in order to prevent a person from tripping over the cable.

In reference to claim 14, Torrez modified by Adinolfi discloses a support apparatus having three rail support legs (150, 160, 180) as stated above.

In reference to claim 17, Torrez modified by Adinolfi discloses a support apparatus having a cable port as stated above, shown in Fig. 1b of Torrez to have a cable end connector (104) attached to the cable (102). Said cable end connector (104) is further shown in Fig. 1a to appear larger than the cable port diameter required to pass cable (102). These references fail to explicitly disclose that the cable port has a diameter less than the diameter of the cable end connector.

However it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to provide the cable port to have a diameter less than the diameter of the cable end connector, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In *re Rose*, 105 USPQ 237 (CCPA 1955). Doing so would provide a cable end connector that can be easily connected and disconnected to a mating cable end connector due to its large size.

In reference to claim 18, Torrez modified by Adinolfi discloses a support apparatus having a cable port as stated above, further shown in Fig. 1a of Torrez to

have multiple microphones attached to each item support rail. These references fail to explicitly disclose the couplers to have a first and second cable port sized to accommodate additional cables to pass.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a first and second cable port sized to accommodate additional cables to pass, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claims 19 and 20, Torrez modified by Adinolfi discloses a support apparatus as stated above, but fails to explicitly disclose the first cable port to be an upper cable port, and the second cable port to be a lower cable port.

However it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first cable port to be an upper cable port, and the second cable port to be a lower cable port, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Doing so would provide an efficient method of organizing separate microphone cables for easy reference.

In reference to claim 21, Torrez modified by Adinolfi discloses a support apparatus having a first and second cable port for cables to pass as stated above, further shown in Fig. 1a of Torrez to have a cable port (101) sized to accommodate only one cable (102) (column 3 lines 29-31).

In reference to claim 22, Torrez modified by Adinolfi discloses a support apparatus having a vertically adjustable item support rail where at least one item support rail is non-horizontal as stated above.

In reference to claim 23, Torrez modified by Adinolfi discloses a support apparatus as stated above, where said support apparatus is collapsible (column 2 lines 5-6).

In reference to claim 49, Torrez modified by Adinolfi discloses a support apparatus as stated above, where the couplers (220, 230) are disclosed in Torrez to be a pivot couplers which enable item support rail (130) to pivot about a vertical axis along plane (H1), as can be seen from Figs. 1d and 2-4 (column 3 lines 58-64).

Response to Arguments

Applicants' arguments filed March 24, 2009 have been fully considered but they are not persuasive.

Applicants state on page 7 that "the Torrez reference does not disclose a support apparatus 'wherein at least one of said couplers is a pivot coupler that pivotally couples one of said item support rails to one of said rail support legs and enables rotatable motion of said item support rail about a substantially vertical axis'". However Torrez discloses that item support rail (right horizontal longitudinal bar 130) rotates horizontally--therefore about a vertical axis--in the direction of arrows (H1) shown in Fig. 1d through coupler (fitting 220) (column 3 lines 58-61). This rotational movement of item support rail (130) is further shown in Figs. 2 and 3. Said coupler (220) is further

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disclosed to couple said item support rail (130) and rail support leg (160) (column 3 lines 61-64). Therefore Torrez properly discloses this limitation as required by applicants' claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER UHLIR whose telephone number is (571)270-3091. The examiner can normally be reached on Monday-Thursday 8:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990.

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/CHRISTOPHER UHLIR/
Examiner, Art Unit 2832
June 3, 2009

/Jeffrey Donels/
Primary Examiner, Art Unit 2832